



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Authorize Mayor to Sign Letters of Opposition to the U.S. House of Representatives Committee on Energy and Commerce Bill, Communications, *Opportunity*, Promotion, and Enhancement Act of 2006 (Barton-Rush) and the California State Assembly *Bill*, **AB 2987** (Nunez) to Prevent the Pre-emption of Local Control of Cable Television Franchises

**MEETING DATE:** April 19, 2006

**PREPARED BY:** Management Analyst, City Manager's Office

**RECOMMENDED ACTION:** Authorize Mayor to sign letters of opposition to the U.S. House of Representatives Committee on Energy and Commerce bill, Communications, Opportunity, Promotion, and Enhancement Act of 2006 (Barton-Rush) and the California State Assembly bill, AB 2987 (Nunez) to prevent the pre-emption of local control of cable television franchises.

**BACKGROUND INFORMATION:** The U.S. House of Representatives Committee on Energy and Commerce is expected to vote on the Communications, Opportunity, Promotion, and Enhancement Act of 2006 (*Barton-Rush*) bill the week of April **24**, 2006. As it is currently crafted, the bill nationalizes franchising of video/cable service, preempts local oversight of the rights-of-way, does not provide sufficient enforcement of audit authority, does not keep local government fiscally whole and does not ensure service to all within a reasonable period of time. As such, the City of Lodi opposes the telecommunications bills and supports the following key amendments:

- Rights-of-Way Enforcement and Revenues: Keeps local government financially whole
- Cable *Service/IPTV*: Keeps local government financially whole
- *Build Out*: Service to all within a reasonable period of time
- Anti-Redlining: Local government has authority to prevent discrimination
- *PEG*: 1% or per-sub equivalent of the largest incumbent's pre-existing obligation
- Enforcement: Disputes relating to rights-of-way management go to courts, not FCC

Also troubling at the state level is **AB 2987** (Nunez). Specific concerns regarding this bill are threats to:

- Consumer protection and customer service
- Video services to libraries and schools
- PEG channels and PEG support
- Public rights-of-way
- Revenues
- Encourages redlining

APPROVED: \_\_\_\_\_

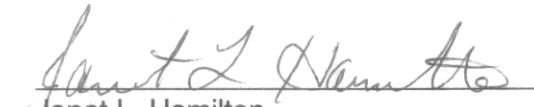
Blair King, City Manager

Telecommunications reform has the potential to dramatically impact the city's franchise fees, as well as affect the city's ability to ensure public access to vital information services, public safety and economic development.

Both the League of California Cities and the **U.S.** Conference of Mayors have asked that cities oppose these bills.

**FISCAL IMPACT:**

At risk are the franchise fees collected for cable television services. Annual revenues generated from the Cable Television Franchise are approximately \$230,000.

  
Janet L. Hamilton  
Management Analyst

# CITY OF LODI



## CITY COUNCIL

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Mayor

BOB JOHNSON,  
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CITY HALL, 221 WEST PINE STREET / P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6702 / FAX (209) 333-6807 / [www.lodi.gov](http://www.lodi.gov)

April 18, 2006

The revolutionary changes in communications technology are forcing a serious reexamination of the regulatory framework for the telecommunications industry at the federal, state and local levels. For the purposes of this communication, telecommunications means the transmission of voice, data and video services to businesses and consumers in our communities. The 2006 state and congressional legislative sessions are poised to focus on this issue and we can expect a new paradigm for the regulation of telecommunications services to emerge in the not-too-distant future.

From the perspective of California's city officials we approach this debate with a combination of optimism and concern. We are optimistic because of the promise of new and robust telecommunications services for our communities that will enhance the quality of life, improve the business climate and give local agencies the tools to better protect our citizens. On the other hand, we have concerns that vital local resources and authority may be ignored in this debate and in turn cause financial hardship and loss of control over an important taxpayer investment – the local transportation system (the public's right-of-way).

This communication to you serves as our city's statement that we are going to take this debate seriously and want to open up an on-going dialogue with you as this debate progresses in Congress and the state legislature. To guide us in this debate, the League of California Cities has adopted the following principles, and the City of Lodi agrees with those principles, for you to consider in this debate. Those principles are:

## REVENUE PROTECTIONS

- Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
- Regulatory fees and/or taxes should apply equitably to all telecommunications service providers.
- A guarantee that all existing and any new fees/taxes remain with local governments to support local public services and mitigate impacts on local rights-of-way.
- Oppose any state or federal legislation that would pre-empt or threaten local taxation authority

## RIGHTS-OF-WAY

- To protect the public's investment, the control of public rights-of-way must remain local.
- Local government must retain full control over the time, place and manner for the use of

the public right-of-way in providing telecommunications services, including the appearance and aesthetics of equipment placed within it.

#### ACCESS

- All local community residents should be provided access to all available telecommunications services.
- Telecommunications providers should be required to specify a reasonable timeframe for deployment of telecommunications services that includes a clear plan for the sequencing of the build-out of these facilities within the entire franchise area.

#### PUBLIC EDUCATION AND GOVERNMENT (PEG) SUPPORT

- The resources required of new entrants should be used to meet PEG support requirements in a balanced manner in partnership with incumbent providers.
- For cities currently without PEG support revenues, a minimum percentage of required support needs to be determined.

#### INSTITUTIONAL OR FIBER NETWORK (INET)

- The authority for interested communities to establish INET services and support for educational and local government facilities should remain at the local level.

#### PUBLIC SAFETY SERVICES

- The authority for E-911 and 911 services should remain with local government, including any compensation for the use of the right-of-way. All E-911 and 911 calls made by voice over internet protocol shall be routed to local public safety answering points (PSAPs); i.e., local dispatch centers.
- All video providers must provide local emergency notification service.

#### CUSTOMER SERVICE PROTECTION

- State consumer protection laws should continue to apply as a minimum standard and should be enforced at the local level. Local governments should retain the authority to assess penalties to improve customer service

#### OTHER ISSUES

- Existing telecommunications providers and new entrants shall adhere to local city policies on public utility under-grounding.

It is our intent to contact your office and set up a meeting to discuss these principles and issues of importance to local government, our constituents and yours. We hope this will prove helpful in starting the dialogue. We look forward to speaking with you in the near future.

Sincerely,

Susan Y. Hitchcock  
Mayor, City of Lodi

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April 19, 2006

Governor Arnold Schwarzeneger  
State Capitol Building  
Sacramento, CA 95814

Dear Governor Schwarzeneger.

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April 19, 2006

Senator Charles Poochigian  
State Capitol, Room 5087  
Sacramento, CA 95814

Dear Senator Poochigian,

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April 19, 2006

California Assemblyman Alan Nakanishi, MD  
State Capitol, Room 5175  
P.O. Box 942849  
Sacramento, CA 94249-0010

Dear Assemblyman Nakanishi,

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April 19, 2006

U. S. Congressman Richard **Pombo**  
2411 Rayburn HOB  
Washington, DC 20515

Dear Congressman **Pombo**,

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